IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH DECEMBER 2007 / 19TH AGRAHAYANA 1929

Crl.MC.No. 3666 of 2007()

CP.21/2005 JFCM, THIRUVALLA

PETITIONER: ACCUSED

1. K.A.JOSEPH,
KURIACHITAYIL, KUTTOOR.

2. FRANCIS V.ANTONY,
VADAKKEPPARAMBIL, PARUMALA.

3. PRAMOD ELAMON,
HAPPY HOME, PERINGARA.

4. SAJIMON,
CHIRAPPURATHU, CHUMATHRA.

5. SANTHOSH,
KATTILATHU, CHUMATHRA.

6. MANU,
MANU SADANAM, CHUMATHRA.

BY ADV. SRI.V.V.NANDAGOPAL NAMBIAR
SRI.T.P.PRADEEP

RESPONDENTS: COMPLAINANT

THE STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 10/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3666 OF 2007

Dated this the 10th day of December, 2007

O R D E R

The petitioners face indictment for an offence punishable, inter alia, under Section 308 IPC. The alleged incident took place in 2003. Final report has already been filed. Cognizance has been taken by the learned Magistrate but the petitioners have not entered appearance so far. Consequently, reckoning them as absconding accused, non-bailable warrants have been issued against the petitioners by the learned Magistrate. The petitioners find the warrants issued by the learned Magistrate chasing them.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. Their absence earlier was not wilful or deliberate. The petitioners are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. They, therefore, pray

that directions under Section 482 Cr.P.C. may be issued to the learned Magistrate to release the petitioners on bail when they appear and apply for bail.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate, the circumstances under which they could not earlier appear before the learned Magistrate. I find absolutely no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioners on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have been issued in ***Alice George vs. Deputy Superintendent of Police*** [2003 (1) KLT 339].

4. In the result, this Criminal Miscellaneous Case is dismissed but with the specific observation that if the petitioners surrender before the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in

charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

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